HC-KAR

NC: 2026:KHC:60751
CRL.P No. 3961 of 2025

CNR: KAHC010185962025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO. 3961 OF 2025 (482(Cr.PC) / 528(BNSS)-)

BETWEEN:

SRI FAROOQ MUGILI
AGED 30 YEARS
S/O AHAMMED BEARY
R/AT MUGULI HOUSE
KAROPADY VILLAGE
BANTWALA TALUK
DK DIST 574279

...PETITIONER

(BY Ms HALEEMA AMEEN., ADVOCATE FOR
SRI. ASHOK KUMAR SHETTY K., ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY VITLA POLICE STATION
MANGALURU
REP BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGALURU 560001

2. SRI B. VIGNESHWARA BHAT
AGED 61 YEARS
S/O GOVINDA BHAT
R/AT ANIYALAKODI MANE
KUDDALADKA
KAROPADI VILLAGE
BANTWALA TALUK
DK DISTRICT 574279

...RESPONDENTS

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(BY SMT. RASHMI PATEL., HCGP FOR R1;
R2-SERVED)

THIS CRIMINAL PETITION IS FILED U/S 482 CR.P.C (U/S 528 BNSS) PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN CC.NO.1496/2021 REGISTERED BY THE RESPONDENT NO.1 IN CR.NO.183/2018 OF VITAL P.S., BANTWAL, , FOR THE OFFENCES P/U/S 143,147,148,506,427 R/W 149 OF IPC, U/S 2(a)(b) OF KPDLP ACT, ON THE FILE OF ADDITIONAL CIVIL JUDGE AND JMFC, BANTWALA, D.K., AGAINST THE PETITIONER.

THIS CRIMINAL PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

ORAL ORDER

1. The petitioner is before this Court seeking for the following reliefs:

> *(a) Quash the entire proceedings in CC.No.1496/2021 registered by the respondent no.1 in Cr.No.183/2018 of Vital P.S., Bantwal, , for the offences p/u/s 143,147,148,506,427 r/w 149 of IPC, u/s 2(a)(b) of KPDLP act, on the file of Additional Civil Judge and JMFC, Bantwala, D.K., against the petitioner.*

2. Respondent No.2 lodged a complaint on 19.05.2018, pursuant to which an FIR in Crime No.183/2018 came to be registered by Vitla Police Station for the offences punishable under Sections 143, 147, 148, 506, 427 read with Section 149 of the Indian Penal Code, 1860 (hereinafter referred to as the 'IPC' for short) and Section 2(a) and (b) of the Prevention of Destruction and Loss of Property Act, 1981

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(hereinafter referred to as the **'KPDLP Act'** for short).

3. The allegation in the complaint is that, on 19.05.2018, at about 8.45 p.m., the petitioners, along with several others numbering approximately 150 to 200, arrived at the spot on motorcycles and caused damage to the property belonging to the complainant as also to Devarakatte (God's platform or Sacred place). It was alleged that the said persons had indulged in acts resulting in destruction of and damage to the aforesaid properties, requiring action to be initiated against them.

4. Investigation having been completed, a charge-sheet came to be filed on 26.07.2020 for the aforesaid offences. It is challenging the proceedings initiated pursuant to the filing of the charge-sheet that the petitioner is before this Court.

5. The submission of the learned counsel for the petitioner is that the charge-sheet has been filed solely on the basis of the statements made by the complainant and his associates. No independent witnesses have been examined during the course of investigation or their statements incorporated in the

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charge-sheet to substantiate the allegations made in the complaint.

6. Learned counsel further relies upon the mahazar drawn during the course of investigation and submits that a perusal thereof does not indicate any damage having been caused to the properties referred to in the complaint. There is no description of any particular damage or destruction to Devarakatte or to the property belonging to the complainant.

7. She further submits that no wound certificate or other medical material has been placed on record to substantiate the allegation that the complainant was assaulted. Even the statements of the complainant and the other witnesses do not disclose any injury having been sustained by the complainant.

8. In that view of the matter, learned counsel submits that the material collected during investigation does not disclose the commission of any of the offences alleged against the petitioner and that continuation of the criminal proceedings would amount to an abuse of the process of law. She, therefore, seeks quashing of the proceedings.

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9. Heard Smt. Haleema Ameen, learned counsel appearing on behalf of Sri. Ashok Kumar Shetty K., learned counsel for the petitioner, and the learned HCGP appearing for respondent No.1. Respondent No.2, though served, has chosen to remain unrepresented. Perused the papers.

10. The complaint was initially lodged alleging commission of the offences punishable under Sections 143, 147, 148, 506, 427 read with Section 149 of the IPC and Section 2(a) and (b) of the KPDLP Act. However, the charge-sheet laid on 26.07.2020 invokes Sections 143, 147, 148 and 506 read with Section 149 of the IPC and Section 2(a) and (b) of the KPDLP Act. The offence punishable under Section 427 of the IPC has not been included in the charge-sheet.

11. Insofar as the offences under Section 2(a) and (b) of the KPDLP Act are concerned, the essential requirement for attracting the said provisions is the commission of mischief resulting in loss or damage to property. Section 2(a) deals with commission, attempt, instigation, incitement or abetment of mischief within the meaning of Section 425 of the IPC, resulting in loss or damage to property. Section

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2(b), likewise, contemplates causing loss or damage to property in an area during the period when an assembly of five or more persons is prohibited by law or when such assembly is deemed to be an unlawful assembly under Section 141 of the IPC.

12. Thus, irrespective of whether the assembly was prohibited or constituted an unlawful assembly, the requirement of loss or damage to property is essential for attracting the provisions of Section 2 of the KPDLP Act.

13. In the present case, the allegation in the complaint is that the petitioner, along with several others, caused damage to Devarakatte and the property belonging to the complainant. However, the mahazar drawn during the course of investigation does not disclose any such damage or destruction. No particular damage to the property has been identified or recorded in the mahazar. The Investigating Officer has also not placed any other material before this Court to substantiate the alleged damage or loss.

14. In the absence of any material indicating that loss or damage was caused to the property, the essential ingredients of Section 2(a) and (b) of the KPDLP Act are not made out. Consequently, the invocation of

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the said provisions against the petitioner cannot be sustained.

15. Insofar as the offences punishable under Sections 143, 147, 148, 506 and 149 of the IPC are concerned, the allegation is that the petitioner, along with approximately 100 or more persons, came to the spot on motorcycles, raised slogans in support of a political party and, when the complainant approached them, abused, threatened and assaulted him.

16. The material collected during investigation, particularly the statements of the complainant and the other witnesses, requires consideration. A perusal of the said statements does not disclose any specific injury having been caused to the complainant. In fact, the statements, as placed before this Court, do not indicate any wound or physical injury having been sustained by him.

17. Though the absence of a wound certificate, by itself, may not be sufficient to negate an allegation of assault, the relevant consideration is whether the statements of the witnesses disclose the commission of an act involving force or violence in prosecution of the common object of an unlawful assembly. In the

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present case, the statements do not disclose any specific act of violence or other material which would substantiate the allegation of rioting.

18. It is also necessary to notice that, for the purpose of attracting Section 143 of the IPC, the assembly must satisfy the requirements of Section 141 of the IPC. An assembly of five or more persons does not become an unlawful assembly merely because of the number of persons gathered at a particular place. The common object of the persons composing the assembly must fall within one or more of the categories enumerated under Section 141 of the IPC.

19. Similarly, for the offence punishable under Section 147 of the IPC, there must be use of force or violence by an unlawful assembly, or by any member thereof, in prosecution of its common object. For the offence under Section 148 of the IPC, the further requirement is that the person concerned must be armed with a deadly weapon or with an article which, when used as a weapon of offence, is likely to cause death.

20. In the present case, the material placed along with the charge-sheet does not disclose the existence of any common object falling within the scope of

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Section 141 of the IPC. The mere fact that a large number of persons allegedly arrived at the spot on motorcycles and raised slogans in support of a political party would not, by itself, constitute an unlawful assembly. There must be some material to indicate that the persons assembled shared a common object of the nature contemplated under Section 141 of the IPC.

21. Further, the charge-sheet material does not disclose any specific material indicating that the petitioner was armed with a deadly weapon or had participated in any act of violence in prosecution of the alleged common object so as to attract Section 148 of the IPC.

22. Insofar as the offence punishable under Section 506 of the IPC is concerned, the statements recorded during investigation do not disclose the specific nature of the threat allegedly extended to the complainant or the circumstances indicating that such threat was intended to cause alarm or to compel the complainant to do or omit to do any act. A general allegation of having been abused or threatened, without the necessary particulars to constitute criminal intimidation, would not, by itself,

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be sufficient to attract the provisions of Section 506 of the IPC.

23. Section 149 of the IPC provides for constructive liability of every member of an unlawful assembly for an offence committed by any member thereof in prosecution of the common object of such assembly or which the members knew to be likely to be committed in prosecution of such object. However, the application of the said provision is dependent upon the existence of an unlawful assembly and the establishment of a common object falling within the scope of Section 141 of the IPC.

24. In the present case, when the material collected during investigation does not disclose the existence of an unlawful assembly or any specific common object attributable to the persons assembled, the provisions of Section 149 of the IPC cannot be invoked merely on the basis that several persons had gathered at the spot.

25. The contention of the learned counsel for the petitioner that there are no independent witnesses supporting the prosecution case, by itself, may not be sufficient to quash the proceedings, since the statements of the complainant and other witnesses

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can constitute evidence in accordance with law. However, in the present case, even on a perusal of the statements of the complainant and the other witnesses, the essential ingredients of the offences alleged are not disclosed.

26. On enquiry, the learned HCGP is unable to point out any other material collected during investigation which would indicate the commission of the offences alleged or establish the involvement of the petitioner therein. The mahazar does not disclose any damage to the property, the witness statements do not substantiate the alleged acts of violence, and there is no material to establish the common object necessary for attracting Sections 143, 147 and 149 of the IPC. The ingredients necessary to attract Sections 148 and 506 of the IPC are also not disclosed from the material placed before this Court.

27. In that view of the matter, this Court is of the considered opinion that the material collected during investigation, even if taken at its face value, does not disclose the commission of the offences alleged against the petitioner. Continuation of the proceedings against the petitioner, in the absence of material constituting the essential ingredients of the

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alleged offences, would amount to an abuse of the process of law.

28. Accordingly, the petitioner has made out a case for exercise of the inherent jurisdiction of this Court to quash the proceedings.

29. In that view of the matter, this Court passes the following:

ORDER

i) Criminal petition is **allowed**.

ii) The proceedings in C.C.No.1496/2021 registered by respondent No.1 in Cr.No.183/2018 registered by Vital Police Station pending on the file of Additional Civil Judge and JMFC, Bantwala, D.K., against the petitioner.

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(SURAJ GOVINDARAJ)
JUDGE

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